

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3767 of 2022

Arising Out of PS. Case No.-5 Year-2022 Thana- SC/ST District- Araria

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1. MD. MAKIR @ NASIR @ MD. NASIR Son of Late Md. Mahmood Resident of Chatta Tola, Ward No.- 6, Police Station - Forbesganj, District - Araria.
 2. Md. Jahid Son of Late Md. Mahmood Resident of Chatta Tola, Ward No.- 6, Police Station - Forbesganj, District - Araria.

... .. Appellant/s

Versus

1. The State of Bihar
2. Kavita Devi Wife of Dilip Das Resident of Training School Chowk, Ward No.- 21, Police Station - Forbesganj, District - Araria.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Arun Kumar Mandal, Adv.
For the Respondent/s	:	Mr.Usha Kumari 1, Spl.PP. Mr. Anil Prasad Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 02-03-2023 Heard the parties.

Learned counsel for the appellants undertakes to remove the defects within four weeks.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail vide order dated 27.09.2022 passed by learned 1st Additional Sessions Judge cum Special Judge (SC/ST Act), Araria in connection with



Araria(SC/ST) P.S. Case No. 05 of 2022 registered under Sections 363, 366(A) of the Indian Penal Code and Section 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Allegedly, appellant no.2 is said to have abducted the daughter of the informant and fled away. And when the informant complained about the incident to the guardian of the accused person, appellant no.1 abused her and her husband by taking their caste name and assaulted her by shoes.

It is submitted by learned counsel for the appellants that appellants are quite innocent and have committed no offence. The appellants have no concern with the aforesaid occurrence. They have been falsely implicated in the case due to ulterior motive. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. Slating the informant/complainant in the name of caste is said to have been made at the house of the appellant no.1 and not in public view, hence no offence under SC/ST Act is made out against the appellants. There is specific allegation against co-accused Chunnu to abduct the informant's daughter and later solemnize marriage with her. It is further submitted that the statement of the victim girl has been recorded u/s 164 Cr.P.C. in which she



has not supported the prosecution case and stated that she went with the Md. Chunnu and appellant no.2 with her own sweet will and solemnize marriage with Md. Chunnu. Appellants have no criminal antecedent as mentioned in para-3 of memo of appeal.

Learned Spl. PP for the State as well as learned counsel for the respondent no.2 opposed the prayer for bail. Learned counsel for the respondent no.2 submitted that in the present case, the cognizance has been taken but he is not confirmed about this fact.

Considering the facts and circumstances of the case as well as the argument of the parties, the above named appellants, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Addl. Sessions Judge cum Special Judge (SC/ST Act), Araria in connection with Araria (SC/ST) P.S. Case No. 05 of 2022, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside and this



appeal is allowed.

However, the learned Court below is directed to confirm the fact whether the cognizance has been taken or not against the appellants. In case cognizance has been taken, the bail bond of the appellants shall not be accepted by the learned Court below.

(Anjani Kumar Sharan, J)

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